

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: :
Dannil Ray Ankrum,
Kimberly Sue Ankrum, : Case No. 11-54266
 : Chapter 13
Debtors. : Judge Hoffman

SECOND OBJECTION TO PROOF OF CLAIM NO. 18
OF THE OHIO DEPARTMENT OF TAXATION

Now come Debtors, Dannil and Kimberly Ankrum, by and through counsel, and respectfully object to Proof of Claim No. 18 filed by the Ohio Department of Taxation, Bankruptcy Division, P.O. Box 530, Columbus, Ohio 43216, on September 16, 2011, as the claim includes improper assessments for the income tax year 2010 and Debtors are due a refund for 2010, as more fully set forth, below.

Respectfully submitted,

/s/ Crystal I. Zellar

Crystal I. Zellar (#0038785)

Adam T. Barclay (#0075869)

Zellar & Barclay, Attorneys at Law, Inc.

720 Market St., PO Box 2172

Zanesville, Ohio 43702-2172

Telephone: (740) 452-8439

Counsel for Debtors

MEMORANDUM IN SUPPORT

This Chapter 13 case was filed on April 21, 2011. The Plan was confirmed on November 7, 2011. The Debtors have paid Sixty Thousand Sixty Two and 19/100ths Dollars (\$60,062.19) into the Chapter 13 Plan to date, and are current on their Plan payments.

On September 16, 2011, the State of Ohio, Department of Taxation filed Proof of Claim No. 18, requesting payment on an Income Tax Assessment for tax year 2010, in the unsecured priority amount of \$3,780.00 (assessed income taxes and interest) and unsecured non-priority

amount of \$1,322.00 (penalties). However, the Income Tax Return filed by the Debtors for 2010 reflect that Debtors not only do not owe any taxes whatsoever for tax year 2010 but, in fact, are due a refund in the amount of \$668.00 for said tax year.

Debtors previously objected to Proof of Claim No. 18 filed by the Ohio Department of Taxation, and an Agreed Order was entered (pl #85) that provided Debtors with payment credits in the amounts of \$6,043.27 and \$8,670.96, thereby reducing the unsecured priority claim from \$28,480.05 to \$13,765.82. Debtors hereby request that the unsecured priority portion of Proof of Claim No. 18 be further reduced by the amount of \$3,780.00, and that the general unsecured portion of the claim be reduced by \$1,322.00, representing the assessed income taxes, interest and penalties related to tax year 2010, as Debtors are entitled to a refund for that tax year.

WHEREFORE, your Debtors respectfully request this Court issue an Order further reducing the unsecured priority portion of Proof of Claim No. 18 filed by the Ohio Department of Taxation from \$13,765.82 to \$9,985.82, and reducing the general, unsecured, non-priority portion of Proof of Claim No. 18 filed by the Ohio Department of Taxation from \$26,353.29 to \$25,031.29, representing credits for the assessed income taxes, interest and penalties relating to income tax year 2010, as Debtors are actually due a refund for said tax year.

Respectfully submitted,

/s/ Crystal I. Zellar

Crystal I. Zellar (#0038785)

Adam T. Barclay (#0075869)

Zellar & Barclay, Attorneys at Law, Inc.
Counsel for Debtors

NOTICE AND CERTIFICATE OF SERVICE

I hereby certify that on **November 19, 2012**, a copy of the foregoing **Second Objection to Proof of Claim No. 18 of the Ohio Department of Taxation** was served on the following registered ECF participants, **electronically** through the court's ECF System at the email address registered with the court:

US Trustee

Chapter 13 Trustee

Eleanor Beavers-Haynes, Esq.

and on the following by **ordinary U.S. Mail** addressed to:

Dannil & Kimberly Ankrum
18294 National Rd SE
Newark OH 43056

Ohio Department of Taxation
Bankruptcy Division
c/o Rebecca Daum Esq
PO Box 530
Columbus OH 43216

Attorney General of the State of Ohio
Collection Enforcement
150 E Gay St 21st Fl
Columbus OH 43215

as and for NOTICE that the attached request for relief would be filed. The undersigned will present to the Court a proposed order granting the relief sought, unless, within thirty (30) days after this date, a written memorandum in opposition along with a request for hearing is filed with the Court and served on the undersigned.

/s/ Crystal I. Zellar

Crystal I. Zellar (#0038785)

Adam T. Barclay (#0075869)

Zellar & Barclay, Attorneys at Law, Inc.

Counsel for Debtors

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**NOTICE OF FILING OF SECOND OBJECTION TO PROOF OF CLAIM NO. 18
OF THE OHIO DEPARTMENT OF TAXATION**

The Debtors have filed an **Objection to Proof of Claim**.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief sought in the motion/objection, then on or before **thirty (30) days from the date set forth in the certificate of service for the motion/objection**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to: US Bankruptcy Court, Clerk's Office, 170 North High Street, Columbus, Ohio 43215, OR, your attorney must file a response using the court's ECF System.

The court must **receive** your response on or before the date above.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

US Trustee - ustpreion09.cb.ecf@usdoj.gov
Chapter 13 Trustee - notices@ch13columbus.com
Crystal I. Zellar, Esq. & Adam T. Barclay, Esq. - mail@zellarlaw.com
Dannil & Kimberly Ankrum, 18294 National Road SE, Newark, Ohio 43056

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion/objection and may enter an order granting that relief.

Date: November 19, 2012

/s/ Crystal I. Zellar
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